

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MICHAEL GERALD,

Plaintiffs,

~~-----X~~
~~against~~

THE CITY OF NEW YORK, COMMISSIONER
RAYMOND KELLY; and P.O. ANDY CRUZ, Shield
No. 28171, the individual defendants sued individually
and in their official capacities.

**STIPULATION AND
ORDER OF
SETTLEMENT AND
DISMISSAL**

08 CV 5117 (SLT)(RLM)

Defendants.
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WHEREAS, plaintiff commenced this action on December 19, 2009, by filing a
complaint alleging, *inter alia*, violations of his civil rights pursuant to 42 USC § 1983; and

WHEREAS, defendants have denied any and all liability arising out of plaintiff's
allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation,
without further proceedings and without admitting any fault or liability; and

WHEREAS, plaintiff has authorized his counsel to settle this matter on the terms
set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by
and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and
without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.
2. Defendant City of New York hereby agrees to pay plaintiff MICHAEL
GERALD a sum of TEN THOUSAND (\$10,000), to be paid in full satisfaction of all claims,

including claims for costs, expenses and attorney's fees. In consideration for the payment of this sum, plaintiff agrees to the dismissal of all the claims against the City of New York, Commissioner Raymond Kelly, Police Officer Andy Cruz and to release all defendants and any present and former employees or agents of the City of New York, from any and all liability, claims, or rights of action that have or could have been alleged by plaintiff in this action arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney's fees.

3. Plaintiff shall execute and deliver to defendant's attorney all documents necessary to effect this settlement, including, without limitation a General Release based on the terms of paragraph 2 above and an Affidavit Of No Liens.

4. Nothing contained herein shall be deemed to be an admission by the defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation and settlement shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York, or the New York City Police Department.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of

the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York
July 20, 2009

Michael O. Hueston, Esq.
350 Fifth Avenue
Suite 4810
New York, New York 10118
(212) 643-2900

By: 

Michael O. Hueston, Esq.

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant City of New York
100 Church Street, Room 3-221
New York, New York 10007
(212) 788-1096
ssud@law.nyc.gov

By: 

Sumit Sud
Assistant Corporation Counsel

SO ORDERED:

HONORABLE SANDRA L. TOWNES
UNITED STATES DISTRICT JUDGE